

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 467

Introduced by Assembly Member Feuer

February 20, 2007

An act to add Article 6 (commencing with Section 68630) to Chapter 2 of Title 8 of, and to repeal Section 68511.3 of, the Government Code, relating to the courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 467, as amended, Feuer. Courts: access to justice.

Existing law requires the Judicial Council to *formulate and adopt uniform forms and rules of court, among other things*, for litigants proceeding in forma pauperis ~~and for regulating the selection of appointed counsel to handle criminal appeals by indigent defendants, as specified~~, *providing, among other things, standard procedures for considering and determining applications for permission to proceed in forma pauperis, and that permission to proceed in forma pauperis be granted to eligible litigants.*

~~This bill would state findings and declarations of the Legislature relating to access to the courts for those persons unable to pay court fees~~ *revise and recast these provisions to provide, instead, that an initial fee waiver shall be granted by the court at any stage of the proceedings at the trial court level if an applicant meets specified standards of eligibility and application requirements. The bill would authorize the court to reconsider the initial fee waiver and to recover fees and costs that were waived under specified circumstances. Among other things, the bill would impose a lien in favor of the court against any settlement, compromise, award, or other recovery in excess of \$10,000 by a party*

in a civil case whose court fees and costs were initially waived in the amount of those waived fees and costs. The bill would require the Judicial Council to adopt rules and forms to establish uniform procedures to implement these provisions, and would require applicants for an initial fee waiver to complete application forms under penalty of perjury. The bill also would require a party who petitions the court to enter satisfaction of judgment to declare under penalty of perjury that any order requiring payment of waived fees and costs has been satisfied, and a party who petitions the court for dismissal in a case to declare under penalty of perjury that a lien in favor of the court against any settlement, compromise, award, or other recovery has been paid, as specified. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 68511.3 of the Government Code is
- 2 repealed.
- 3 68511.3.—(a) The Judicial Council shall formulate and adopt
- 4 uniform forms and rules of court for litigants proceeding in forma
- 5 pauperis. These rules shall provide for all of the following:
- 6 (1) ~~Standard procedures for considering and determining~~
- 7 ~~applications for permission to proceed in forma pauperis, including,~~
- 8 ~~in the event of a denial of permission, a written statement detailing~~
- 9 ~~the reasons for denial and an evidentiary hearing if there is a~~
- 10 ~~substantial evidentiary conflict.~~
- 11 (2) ~~Standard procedures to toll relevant time limitations when~~
- 12 ~~a pleading or other paper accompanied by the application is timely~~
- 13 ~~lodged with the court and delay is caused due to the processing of~~
- 14 ~~the application to proceed in forma pauperis.~~

1 ~~(3) Proceeding in forma pauperis at every stage of the~~
2 ~~proceedings at both the appellate and trial levels of the court~~
3 ~~system.~~

4 ~~(4) The confidentiality of the financial information provided to~~
5 ~~the court by these litigants.~~

6 ~~(5) That the court may authorize the clerk of the court, county~~
7 ~~financial officer, or other appropriate county officer to make~~
8 ~~reasonable efforts to verify the litigant's financial condition without~~
9 ~~compromising the confidentiality of the application.~~

10 ~~(6) That permission to proceed in forma pauperis be granted to~~
11 ~~all of the following:~~

12 ~~(A) Litigants who are receiving benefits pursuant to the~~
13 ~~Supplemental Security Income (SSI) and State Supplemental~~
14 ~~Payments (SSP) programs (Sections 12200 to 12205, inclusive,~~
15 ~~of the Welfare and Institutions Code), the California Work~~
16 ~~Opportunity and Responsibility to Kids Act (CalWORKs) program~~
17 ~~(Chapter 2 (commencing with Section 11200) of Part 3 of Division~~
18 ~~9 of the Welfare and Institutions Code), the Food Stamp Program~~
19 ~~(7 U.S.C. Sec. 2011 et seq.), or Section 17000 of the Welfare and~~
20 ~~Institutions Code.~~

21 ~~(B) Litigants whose monthly income is 125 percent or less of~~
22 ~~the current monthly poverty line annually established by the~~
23 ~~Secretary of California Health and Human Services pursuant to~~
24 ~~the Omnibus Budget Reconciliation Act of 1981, as amended.~~

25 ~~(C) Other persons when, in the court's discretion, this permission~~
26 ~~is appropriate because the litigant is unable to proceed without~~
27 ~~using money that is necessary for the use of the litigant or the~~
28 ~~litigant's family to provide for the common necessities of life.~~

29 ~~(b) (1) Litigants who apply for permission to proceed in forma~~
30 ~~pauperis pursuant to subparagraph (A) of paragraph (6) of~~
31 ~~subdivision (a) shall declare under penalty of perjury that they are~~
32 ~~receiving the benefits, and may voluntarily provide the court with~~
33 ~~their date of birth and social security number or their Medi-Cal~~
34 ~~identification number to permit the court to verify the applicant's~~
35 ~~receipt of public assistance. The court may require any applicant,~~
36 ~~except a defendant in an unlawful detainer action, who chooses~~
37 ~~not to disclose his or her social security number for verification~~
38 ~~purposes to attach to the application documentation of benefits to~~
39 ~~support the claim and all other financial information on a form~~
40 ~~promulgated by the Judicial Council for this purpose.~~

~~(2) Litigants who apply for permission to proceed in forma pauperis pursuant to subparagraph (B) or (C) of paragraph (6) of subdivision (a) shall file a financial statement under oath on a form promulgated by, and pursuant to rules adopted by, the Judicial Council.~~

~~(e) (1) The forms and rules adopted by the Judicial Council shall provide for the disclosure of the following information about the litigant:~~

~~(A) Current street address;~~

~~(B) Occupation and employer;~~

~~(C) Monthly income and expenses;~~

~~(D) Address and value of any real property owned directly or beneficially;~~

~~(E) Personal property with a value that exceeds five hundred dollars (\$500);~~

~~(2) The information furnished by the litigant shall be used by the court in determining his or her ability to pay all or a portion of the fees and costs.~~

~~(d) (1) At any time after the court has granted a litigant permission to proceed in forma pauperis, and prior to final disposition of the case, the clerk of the court, county financial officer, or other appropriate county officer may notify the court of any changed financial circumstances that may enable the litigant to pay all or a portion of the fees and costs that had been waived. The court may authorize the clerk of the court, county financial officer, or other appropriate county officer to require the litigant to appear before and be examined by the person authorized to ascertain the validity of his or her indigent status. However, no litigant shall be required to appear more than once in any four-month period. A litigant proceeding in forma pauperis shall notify the court within five days of any settlement or monetary consideration received in settlement of this litigation and of any other change in financial circumstances that affects the litigant's ability to pay court fees and costs. After the litigant either (A) appears before and is examined by the person authorized to ascertain the validity of his or her indigent status, or (B) notifies the court of a change in financial circumstances, the court may then order the litigant to pay to the court the sum and in any manner the court believes is compatible with the litigant's financial ability.~~

1 ~~(2) In any action or proceeding in which the litigant whose fees~~
2 ~~and costs have been waived would have been entitled to recover~~
3 ~~those fees and costs from another party to the action or proceeding~~
4 ~~had they been paid, the court may assess the amount of the waived~~
5 ~~fees and costs against the other party and order the other party to~~
6 ~~pay that sum to the court or to the clerk and serving and levying~~
7 ~~officers respectively, or the court may order the amount of the~~
8 ~~waived fees and costs added to the judgment and so identified by~~
9 ~~the clerk.~~

10 ~~(3) Execution may be issued on any order provided for in this~~
11 ~~subdivision in the same manner as on a judgment in a civil action.~~
12 ~~When an amount equal to the sum due and payable to the clerk~~
13 ~~has been collected upon the judgment, these amounts shall be~~
14 ~~remitted to the clerk within 30 days. Thereafter, when an amount~~
15 ~~equal to the sum due to the serving and levying officers has been~~
16 ~~collected upon the judgment, these amounts shall be due and~~
17 ~~payable to those officers and shall be remitted within 30 days. If~~
18 ~~the remittance is not received by the clerk within 30 days, or there~~
19 ~~is a filing of a partial satisfaction of judgment in an amount at least~~
20 ~~equal to the fees and costs payable to the clerk, or a satisfaction~~
21 ~~of judgment has been filed, notwithstanding any other provision~~
22 ~~of law, the court may issue an abstract of judgment, writ of~~
23 ~~execution, or both for recovery of those sums, plus the fees for~~
24 ~~issuance and execution and an additional fee for administering this~~
25 ~~section. The court shall establish a fee, not to exceed actual costs~~
26 ~~of administering this subdivision, and in no case exceeding~~
27 ~~twenty-five dollars (\$25), that shall be added to the writ of~~
28 ~~execution.~~

29 ~~(e) Notwithstanding subdivision (a), a person who is sentenced~~
30 ~~to imprisonment in the state prison or confined in a county jail~~
31 ~~and, during the period of imprisonment or confinement, files a~~
32 ~~civil action or notice of appeal of a civil action in forma pauperis~~
33 ~~shall be required to pay the full amount of the filing fee to the~~
34 ~~extent provided as follows:~~

35 ~~(1) In addition to the form required by this section for filing in~~
36 ~~forma pauperis, an inmate shall file a copy of a statement of~~
37 ~~account for any sums due to the inmate for the six-month period~~
38 ~~immediately preceding the filing of the civil action or notice of~~
39 ~~appeal of a civil action. This copy shall be certified by the~~

1 appropriate official of the Department of Corrections and
2 Rehabilitation or a county jail.

3 (2) Upon filing the civil action or notice of appeal of a civil
4 action, the court shall assess, and when funds exist, collect, as a
5 partial payment of any required court fees, an initial partial filing
6 fee of 20 percent of the greater of the following:

7 (A) The average monthly deposits to the inmate's account.

8 (B) The average monthly balance in the inmate's account for
9 the six-month period immediately preceding the filing of the civil
10 action or notice of appeal.

11 (3) After payment of the initial partial filing fee, the inmate
12 shall be required to make monthly payments of 20 percent of the
13 preceding month's income credited to the inmate's account. The
14 Department of Corrections and Rehabilitation shall forward
15 payments from this account to the clerk of the court each time the
16 amount in the account exceeds ten dollars (\$10) until the filing
17 fees are paid.

18 (4) In no event shall the filing fee collected pursuant to this
19 subdivision exceed the amount of fees permitted by law for the
20 commencement of a civil action or an appeal of a civil action.

21 (5) In no event shall an inmate be prohibited from bringing a
22 civil action or appeal of a civil action solely because the inmate
23 has no assets and no means to pay the initial partial filing fee.

24 SEC. 2. Article 6 (commencing with Section 68630) is added
25 to Chapter 2 of Title 8 of the Government Code, to read:

26
27 *Article 6. Waiver of Court Fees and Costs*
28

29 68630. The Legislature finds and declares all of the following:

30 (a) That our legal system cannot provide "equal justice under
31 law" unless all persons have access to the courts without regard
32 to their economic means. California law and court procedures
33 should ensure that court fees are not a barrier to court access for
34 those with insufficient economic means to pay those fees.

35 (b) That fiscal responsibility should be tempered with concern
36 for litigants' rights to access the justice system. The procedure for
37 allowing the poor to use court services without paying ordinary
38 fees must be one that applies rules fairly to similarly situated
39 persons, is accessible to those with limited knowledge of court
40 processes, and does not delay access to court services. The

1 *procedure for determining if a litigant may file a lawsuit without*
2 *paying a fee must not interfere with court access for those without*
3 *the financial means to do so.*

4 *(c) That those who are able to pay court fees should do so, and*
5 *that courts should be allowed to recover previously waived fees if*
6 *a litigant has obtained a judgment or substantial settlement.*

7 *68631. An initial fee waiver shall be granted by the court at*
8 *any stage of the proceedings at the trial court level if an applicant*
9 *meets the standards of eligibility and application requirements*
10 *under Sections 68632 and 68633. An initial fee waiver excuses the*
11 *applicant from paying fees for the first pleading or other paper,*
12 *and other court fees and costs as specified in rules adopted by the*
13 *Judicial Council, unless the court orders the applicant to make*
14 *partial payments under subdivision (c) of Section 68632,*
15 *subdivision (d) of Section 68636, or subdivision (d) of Section*
16 *68637. Under circumstances set forth in Section 68636, the court*
17 *may reconsider the initial fee waiver and order the fee waiver*
18 *withdrawn for future fees and costs or deny the fee waiver*
19 *retroactively. At the end of the case, the court may recover fees*
20 *and costs that were initially waived under circumstances set forth*
21 *in Section 68637.*

22 *68632. Permission to proceed without paying court fees and*
23 *costs because of an applicant's financial condition shall be granted*
24 *initially to all of the following:*

25 *(a) A person who is receiving public benefits under one or more*
26 *of the following programs:*

27 *(1) Supplemental Security Income (SSI) and State Supplementary*
28 *Payment (SSP)(Article 5 (commencing with Section 12200) of*
29 *Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions*
30 *Code).*

31 *(2) California Work Opportunity and Responsibility to Kids Act*
32 *(CalWORKs)(Chapter 2 (commencing with Section 11200) of Part*
33 *3 of Division 9 of the Welfare and Institutions Code) or a federal*
34 *Tribal Temporary Assistance for Needy Families (Tribal TANF)*
35 *grant program (Section 10553.25 of the Welfare and Institutions*
36 *Code).*

37 *(3) Food Stamps (Chapter 51 (commencing with Section 2011)*
38 *of Title 7 of the United States Code) or the California Food*
39 *Assistance Program (Chapter 10.1 (commencing with Section*

1 18930) of Part 6 of Division 9 of the Welfare and Institutions
2 Code).

3 (4) County Relief, General Relief (GR), or General Assistance
4 (GA) (Part 5 (commencing with Section 17000) of Division 9 of
5 the Welfare and Institutions Code).

6 (5) Cash Assistance Program for Aged, Blind, and Disabled
7 Legal Immigrants (CAPI) (Chapter 10.3 (commencing with Section
8 18937) of Part 6 of Division 9 of the Welfare and Institutions
9 Code).

10 (6) In-Home Supportive Services (IHSS) (Article 7 (commencing
11 with Section 12300) of Chapter 3 of Part 3 of Division 9 of the
12 Welfare and Institutions Code).

13 (7) Medi-Cal (Chapter 7 (commencing with Section 14000) of
14 Part 3 of Division 9 of the Welfare and Institutions Code).

15 (b) A person whose monthly income is 125 percent or less of
16 the current poverty guidelines updated periodically in the Federal
17 Register by the United States Department of Health and Human
18 Services under the authority of paragraph (2) of Section 9902 of
19 Title 42 of the United States Code.

20 (c) A person who, as individually determined by the court,
21 cannot pay court fees without using money that normally would
22 pay for the common necessities of life for the applicant and the
23 applicant's family. Only if the court finds that an applicant under
24 this subdivision can pay a portion of court fees, or can pay court
25 fees over a period of time, or under some other equitable
26 arrangement, without using money that normally would pay for
27 the common necessities of life for the applicant and the applicant's
28 family, the court may grant a partial initial fee waiver using the
29 notice and hearing procedures set forth in paragraph (5) of
30 subdivision (d) of Section 68634. "Common necessities of life,"
31 as used in this article, shall be interpreted consistently with the
32 use of that term in paragraph (1) of subdivision (c) of Section
33 706.051 of the Code of Civil Procedure.

34 68633. (a) An applicant for an initial fee waiver under
35 subdivision (a) of Section 68632 shall complete, under penalty of
36 perjury, a Judicial Council application form requiring the
37 applicant to list his or her current street address, or another
38 address where the court can contact the applicant, occupation,
39 employer, and the type of public benefits that he or she is receiving.
40 At the time the application is submitted, the applicant shall not be

1 *required to provide documents supporting receipt of public*
2 *benefits, to provide evidence of identity, to submit to interviews*
3 *regarding the applicant's financial circumstances, to be physically*
4 *present to file the application, or to fill out additional parts of the*
5 *application form.*

6 *(b) An applicant for an initial fee waiver under subdivision (b)*
7 *of Section 68632 shall complete, under penalty of perjury, both of*
8 *the following:*

9 *(1) A Judicial Council application form requiring the applicant*
10 *to provide his or her current street address, or another address*
11 *where the court can contact the applicant, occupation, and*
12 *employer.*

13 *(2) A financial statement showing monthly or yearly income as*
14 *determined under rules, and on forms, adopted by the Judicial*
15 *Council. At the time the application is submitted, the applicant*
16 *shall not be required to provide documents to prove income,*
17 *dependents, or expenses, to provide evidence of identity, to submit*
18 *to interviews regarding the applicant's financial circumstances,*
19 *to be physically present to file the application, or to fill out*
20 *additional parts of the application form.*

21 *(c) An applicant for an initial fee waiver under subdivision (c)*
22 *of Section 68632 shall complete, under penalty of perjury, both of*
23 *the following:*

24 *(1) A Judicial Council application form requiring the applicant*
25 *to provide his or her current street address, or another address*
26 *where the court can contact the applicant, occupation, and*
27 *employer.*

28 *(2) A financial statement showing monthly or yearly income*
29 *and expenses and a summary of assets and liabilities as determined*
30 *under rules, and on forms, adopted by the Judicial Council. At the*
31 *time the application is submitted, the applicant shall not be*
32 *required to provide documents to prove income, dependents, or*
33 *expenses, to provide evidence of identity, to submit to interviews*
34 *regarding the applicant's financial circumstances, or to be*
35 *physically present to file the application.*

36 *(d) The clerk shall provide forms adopted by the Judicial*
37 *Council pursuant to this article without charge to any person who*
38 *requests those forms or indicates that he or she is unable to pay*
39 *any court fee or cost. An applicant shall not be required to*

1 complete any form as part of his or her application under this
2 article other than those forms adopted by the Judicial Council.

3 (e) An applicant for an initial fee waiver shall be informed that,
4 at a later date, the court may require proof of receipt of benefits
5 or financial information to verify eligibility, as provided in Section
6 68636, and that the court may seek reimbursement of initially
7 waived fees under circumstances set forth in Section 68637. This
8 notice requirement is satisfied if the information is provided on
9 the Judicial Council fee waiver application form.

10 (f) Financial information provided by an applicant shall be kept
11 confidential by the court. No person shall have access to the
12 application except the court, authorized court personnel, and any
13 person authorized by the applicant. No person shall reveal any
14 information contained in the application except as authorized by
15 law. A hearing regarding whether to grant or deny a fee waiver
16 request shall be held in camera, and the court shall exclude all
17 persons except court staff, the applicant, those present with the
18 applicant's consent, and any witness being examined. The fact
19 that an applicant's fees and costs have been initially waived and
20 the amount of the waived fees and costs are not confidential. The
21 Judicial Council shall adopt procedures to keep the financial
22 information confidential and to consider a request seeking that
23 confidential information.

24 (g) Counsel representing an applicant who is filing in a general
25 jurisdiction civil case pursuant to an agreement that counsel will
26 advance litigation costs, shall indicate that agreement on the
27 application form. The court shall set a hearing to determine
28 whether or not, considering the resources of the counsel, the
29 applicant is able to pay court fees without using money that
30 normally would pay for the common necessities of life. This
31 subdivision does not apply if the applicant is represented by
32 counsel for, or affiliated with, a qualified legal services project,
33 as defined in Section 6213 of the Business and Professions Code.

34 68634. (a) All applications for an initial fee waiver shall be
35 accepted for filing. If an applicant submits an application without
36 providing all required information to complete the form, the clerk
37 may request that the applicant supply the omitted information, but
38 shall not refuse to file the application, or refuse to file any
39 pleadings accompanying the application, on the ground that the
40 fee has not been paid. The clerk shall not request that the applicant

1 *furnish information that is not required on the Judicial Council*
2 *fee waiver application form. At the time the application is*
3 *submitted, the clerk shall not request that the applicant provide*
4 *documents to support the information other than those required*
5 *under Section 68633.*

6 *(b) If a person has filed an application for an initial fee waiver,*
7 *the person shall be permitted to file his or her pleading or other*
8 *papers immediately, without paying any fees.*

9 *(c) The court may delegate to the clerk the authority to grant*
10 *applications for an initial fee waiver that meet the standards of*
11 *eligibility and application requirements set forth in Sections 68632*
12 *and 68633. The court shall not delegate to a clerk the authority*
13 *to deny or to partially grant an application for an initial fee waiver.*

14 *(d) The fee waiver application shall be determined without*
15 *regard to the substance of the applicant's pleading or other paper*
16 *filed, if any. On review of an application for an initial fee waiver*
17 *the court shall take the following actions, as applicable:*

18 *(1) Grant the application if the information provided on the*
19 *application establishes that the applicant meets the criteria for*
20 *eligibility and application requirements set forth in Sections 68632*
21 *and 68633.*

22 *(2) Deny the application if the application is incomplete. If the*
23 *application is denied on this basis, the applicant shall be given*
24 *notice of the specific reason for denial and a reasonable*
25 *opportunity to submit a revised application or to request a hearing.*

26 *(3) Deny the application if the information provided on the*
27 *application conclusively establishes that the applicant is not*
28 *eligible for an initial fee waiver under Section 68632 on the*
29 *grounds requested. If the application is denied on this basis, the*
30 *applicant shall be given notice of the specific reason for denial*
31 *and a reasonable opportunity to request a hearing. The applicant*
32 *may submit additional information at the hearing.*

33 *(4) Set an eligibility hearing if the court has good reason to*
34 *doubt the veracity of the factual statements in the application. The*
35 *applicant shall be given 10 days' notice of the hearing and the*
36 *specific reason the court doubts the veracity of the factual*
37 *statements. The court may require that specified, reasonably*
38 *available, additional information be provided concerning the*
39 *truthfulness of the factual statements in the application, but shall*
40 *not require submission of information that is not related to the*

1 *criteria for eligibility and application requirements set forth in*
2 *Sections 68632 and 68633.*

3 *(5) Set an eligibility hearing if the information provided on the*
4 *application does not establish that the applicant meets the criteria*
5 *for eligibility and application requirements set forth in Sections*
6 *68632 and 68633, but that information does not conclusively*
7 *establish that the applicant is not eligible for an initial fee waiver*
8 *on the grounds requested. The applicant must be given 10 days'*
9 *notice of the hearing and the specific reason why the court has*
10 *not granted the application. The court may require that specified,*
11 *reasonably available, additional information be provided, but*
12 *shall not require submission of information that is not related to*
13 *the criteria for eligibility and application requirements set forth*
14 *in Sections 68632 and 68633.*

15 *After notice and an opportunity to be heard, the court may*
16 *require an applicant under subdivision (c) of Section 68632 to pay*
17 *a portion of court fees, or to pay court fees over a period of time*
18 *or under some other equitable arrangement that meets the criteria*
19 *of subdivision (c) of Section 68632. The court shall give a written*
20 *statement of reasons if an application is denied in whole or in part.*

21 *(e) An application for an initial fee waiver is deemed granted*
22 *five court days after it is filed, unless before that time, the court*
23 *gives notice of action on the application as provided in subdivision*
24 *(d). Any delay by the court in processing an application to initially*
25 *waive court fees and costs does not count against any time limits*
26 *affecting the pleadings or other papers that the applicant timely*
27 *filed.*

28 *(f) If an application is denied in whole or in part, the applicant*
29 *shall pay the court fees and costs that ordinarily would be*
30 *charged, or make the partial payment as ordered by the court,*
31 *within 10 days after the clerk gives notice of the denial, unless*
32 *within that time the applicant submits a new application or requests*
33 *a hearing under subdivision (d). If the applicant does not pay on*
34 *time, the clerk shall void the papers that were filed without payment*
35 *of the court fees and costs.*

36 *(g) A person who applies for an initial fee waiver shall indicate*
37 *whether he or she has filed a prior application for an initial fee*
38 *waiver in the same case within the previous six months and shall*
39 *attach a copy, if one is reasonably available.*

1 68635. (a) Notwithstanding any other provision of this article,
2 a person who is sentenced to a state prison or confined in a county
3 jail shall pay the full amount of the filing fees and costs to the
4 extent provided in this section.

5 (b) To apply for an initial fee waiver, a person who is sentenced
6 to a state prison or confined in a county jail shall complete, under
7 penalty of perjury, a Judicial Council application form giving the
8 current address of the inmate and a statement that he or she is
9 incarcerated, together with a statement of account for any moneys
10 due to the inmate for the six-month period immediately preceding
11 the application. The form shall be certified by the appropriate
12 official of the Department of Corrections and Rehabilitation or a
13 county jail.

14 (c) When the pleadings or other papers are filed, the court shall
15 assess and, if funds exist, collect as partial payment, a partial
16 filing fee of 20 percent of the greater of either of the following:

17 (1) The average monthly deposits to the inmate's account.

18 (2) The average monthly balance in the inmate's account for
19 the six-month period immediately preceding the application.

20 (d) After the initial filing fee is partially paid, the inmate shall
21 make monthly payments of 20 percent of the preceding month's
22 income credited to the inmate's account. The Department of
23 Corrections and Rehabilitation, or a county jail, shall forward
24 payments from this account to the clerk of the court each time the
25 amount in the account exceeds ten dollars (\$10) until the filing
26 fees are paid in full.

27 (e) The fees collected by the court under this section shall not
28 exceed the amount of the fees that would be charged to a person
29 who is not incarcerated.

30 (f) The court may delegate to a clerk the authority to process
31 requests for fee waivers from inmates under this section.

32 (g) An inmate shall not be prohibited from filing pleadings or
33 other papers solely because the inmate has no assets and no means
34 to partially pay the initial filing fee.

35 68636. (a) After the court has granted an initial fee waiver in
36 whole or in part, and before final disposition of the case, the person
37 who received the initial fee waiver shall notify the court within
38 five days of any change in financial circumstances that affects his
39 or her ability to pay all or a portion of the court fees and costs
40 that were initially waived.

1 (b) If, before or at the time of final disposition of the case, the
2 court obtains information, including information derived from the
3 court file, suggesting that a person whose fees and costs were
4 initially waived is not entitled to a fee waiver, or that the person's
5 financial condition has changed so that he or she is no longer
6 eligible for a fee waiver, the court may require the person to
7 appear at a court hearing by giving the applicant no less than 10
8 days' written notice of the hearing and the specific reasons why
9 the initial fee waiver might be reconsidered. The court may require
10 the person to provide reasonably available evidence, including
11 financial information, to support his or her eligibility for the fee
12 waiver, but shall not require submission of information that is not
13 related to the criteria for eligibility and application requirements
14 set forth in Sections 68632 and 68633. The court shall not conduct
15 a hearing pursuant to this subdivision more often than once every
16 six months.

17 (c) At the time of final disposition of the case, the court may
18 give notice that a person whose fees and costs were initially waived
19 is required to appear at a court hearing by giving the applicant
20 no less than 10 days' written notice of the hearing. The court may
21 require the person to provide reasonably available evidence,
22 including financial information, to support his or her eligibility
23 for the fee waiver, but shall not require submission of information
24 that is not related to the criteria for eligibility and application
25 requirements set forth in Sections 68632 and 68633.

26 (d) In conducting a hearing under subdivision (b) or (c), if the
27 court determines that the person was not entitled to the initial fee
28 waiver at the time it was granted, the court may order the waiver
29 withdrawn retroactively. The court may order the person to pay
30 to the court immediately, or over a period of time, all or part of
31 the fees that were initially waived. The court shall give the person
32 a minimum of 10 court days to begin paying the full or partial fees.

33 (e) In conducting a hearing under subdivision (a), (b), or (c),
34 if the court determines that the person's financial circumstances
35 have changed since the grant of the initial fee waiver or partial
36 initial fee waiver, the court may order the fee waiver withdrawn
37 prospectively from the time that the person no longer was eligible
38 for a fee waiver. The court may order the person to pay to the
39 court immediately, or over a period of time, all or part of the fees
40 that were waived since the time that the person no longer was

1 *eligible for a fee waiver. The court may order the person to begin*
2 *paying all or part of the court fees assessed for future activities*
3 *in the case. The court shall give the person a minimum of 10 court*
4 *days to begin paying the full or partial fees.*

5 *(f) If the court obtains information suggesting that a litigant*
6 *whose fees and costs were initially waived is obtaining court*
7 *services in bad faith, or for an improper purpose such as to harass*
8 *or cause unnecessary delay, or to needlessly increase the cost of*
9 *litigation, the court may give notice that the litigant is required to*
10 *appear at a court hearing to consider whether limitations should*
11 *be placed on court services for which fees are initially waived.*

12 *68637. (a) (1) If a party whose fees and costs were initially*
13 *waived is a prevailing party within the meaning of Section 1032*
14 *of the Code of Civil Procedure, the judgment or dismissal entered*
15 *in favor of the party whose fees and costs were initially waived*
16 *shall include an order requiring that the party against whom*
17 *judgment or dismissal has been entered pay to the court the waived*
18 *fees and costs. The court may refuse to enter a partial or full*
19 *satisfaction of a judgment until an accompanying order requiring*
20 *payment of waived fees and costs has been satisfied.*

21 *(2) A party petitioning the court to enter satisfaction of judgment*
22 *shall declare, under penalty of perjury, that any order requiring*
23 *payment of waived fees and costs has been satisfied.*

24 *(3) This subdivision does not apply to any of the following:*

25 *(A) Unlawful detainer cases.*

26 *(B) Family law matters, for which recovery of fees is subject*
27 *to subdivisions (c) and (d).*

28 *(C) Cases in which the judgment or dismissal is entered against*
29 *a party whose fees and costs were initially waived.*

30 *(b) If a party in a civil case whose fees and costs were initially*
31 *waived recovers ten thousand dollars (\$10,000) or more in value*
32 *by way of settlement, compromise, arbitration award, mediation*
33 *settlement, or other recovery, the waived fees and costs shall be*
34 *paid to the court out of the settlement, compromise, award, or*
35 *other recovery.*

36 *(1) The court shall have a lien on any settlement, compromise,*
37 *award, or other recovery in the amount of all the court fees and*
38 *costs initially waived.*

39 *(2) The waived fees and costs shall first be paid to the court*
40 *before the party whose fees and costs were initially waived receives*

1 anything of value under the settlement, compromise, award, or
2 other recovery.

3 (3) Notice of the lien shall be given to the parties under rules
4 and on forms adopted by the Judicial Council, and the Judicial
5 Council shall provide by rule the procedures by which a party
6 subject to a lien may determine the amount of the lien.

7 (4) The court may refuse to enter a petition for dismissal in the
8 case until the lien is satisfied. A party filing a petition for dismissal
9 shall declare, under penalty of perjury, that the lien has been paid,
10 or that any settlement, compromise, award, or other recovery has
11 a value of less than ten thousand dollars (\$10,000).

12 (5) In a case in which an initial waiver of fees and costs was
13 granted, or if a petition to dismiss the case is filed without the
14 declaration, the court may issue an order to show cause why the
15 lien should not be enforced and why the court should not enter a
16 judgment making the parties jointly and severally liable to the
17 court for initially waived fees and costs.

18 (c) If a judgment or an order to pay support is entered in a
19 family law case, the court shall consider, based on the information
20 in the court file, whether a party who did not receive a fee waiver
21 has the ability to pay all or part of the other party's waived fees.
22 If the court orders payment of the other party's waived fees, and
23 the party required to pay is not present in court at the time
24 judgment is entered, the party required to pay shall be given notice
25 and an opportunity for a hearing to request that the court set aside
26 the order to pay fees. A request for a hearing shall be made in
27 writing within 30 days after service of the notice of the court order.
28 If a request for hearing is made, the order for payment of initially
29 waived fees shall not be enforced until after the hearing.

30 (d) If a judgment is entered in a family law case, the court shall
31 consider, based on the information in the court file, whether a
32 party's circumstances have changed so that it is reasonable to
33 require a party who received an initial fee waiver to pay all or
34 part of the fees that were initially waived. In making this
35 determination, the court shall use the criteria for eligibility set
36 forth in Section 68632. In considering whether a child or spousal
37 support order constitutes a change of circumstances allowing the
38 party to pay fees, the court also shall consider the likelihood that
39 the support obligor will remit the payments ordered by the court.
40 If the court orders the party to pay all or part of the fees that were

1 *initially waived, the party required to pay shall be given notice*
2 *and an opportunity for a hearing to request that the court set aside*
3 *the order to pay fees. A request for a hearing shall be made in*
4 *writing within 30 days after service of the notice of the court order.*
5 *If a request for hearing is made, the order for payment of initially*
6 *waived fees shall not be enforced until after the hearing.*

7 68638. (a) *The court may execute on any order for payment*
8 *of initially waived fees and costs in the same manner as on a*
9 *judgment in a civil action. The court may issue an abstract of*
10 *judgment, a writ of execution, or both, for all of the following:*

11 *(1) Recovery of the initially waived fees and costs as ordered.*

12 *(2) Fees for issuing the abstract of judgment, writ of execution,*
13 *or both.*

14 *(3) A twenty-five dollar (\$25) fee for administering this*
15 *subdivision.*

16 *(4) An amount due to levying officers for serving and collecting*
17 *on the judgment that will all be added to the writ of execution.*

18 (b) *Upon collection, the initially waived fees and costs, the fees*
19 *for issuing the abstract of judgment and writ of execution, and the*
20 *twenty-five dollar (\$25) administrative fee shall be remitted to the*
21 *court. Thereafter, the amount due to the levying officers for serving*
22 *and collecting on the judgment shall be paid.*

23 68639. *An initial fee waiver shall expire 60 days after the*
24 *judgment, dismissal, or other final disposition of the case.*

25 68640. *The Judicial Council may adopt a rule of court to allow*
26 *litigants who are not eligible for a fee waiver to pay court fees in*
27 *installments.*

28 68641. *The Judicial Council shall adopt rules and forms to*
29 *establish uniform procedures to implement this article, including,*
30 *but not limited to, procedures for all of the following:*

31 (a) *Considering and determining applications to proceed without*
32 *paying court fees and costs at every stage of the proceedings,*
33 *including at the trial and appellate levels of the court.*

34 (b) *Prescribing the court fees and costs that may be waived at*
35 *every stage of the proceedings.*

36 (c) *Giving notice of lien and hearings for reconsideration and*
37 *recovery of initially waived fees and costs.*

38 (d) *Collecting waived fees and costs.*

39 (e) *Requesting a hearing when an application is denied.*

1 (f) Any other procedures necessary to implement the provisions
2 of this article.

3 SEC. 3. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

12 SECTION 1. ~~The Legislature finds and declares all of the~~
13 ~~following:~~

14 (a) ~~That our legal system cannot claim to provide “equal justice~~
15 ~~under law” unless all persons have access to the courts without~~
16 ~~regard to their economic means. California law and court~~
17 ~~procedures should ensure that court fees are not a barrier to court~~
18 ~~access for those with insufficient economic means to pay those~~
19 ~~fees.~~

20 (b) ~~That fiscal responsibility should be tempered with concern~~
21 ~~for litigants’ rights to access the justice system. The procedure for~~
22 ~~allowing the poor to use court services without paying ordinary~~
23 ~~fees must be one that applies rules fairly to similarly situated~~
24 ~~persons, is accessible to those with limited knowledge of court~~
25 ~~processes, and does not delay access to court services. The~~
26 ~~procedure for determining if a litigant may file a lawsuit without~~
27 ~~paying a fee must not interfere with court access for those without~~
28 ~~the financial means to do so.~~

29 (c) ~~That those who are able to pay court fees in fact should do~~
30 ~~so and that courts should be allowed to recover previously waived~~
31 ~~fees when a litigant has obtained a substantial judgment or~~
32 ~~settlement.~~